



Criminal Injuries Compensation Board

2012-13 Annual Report

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CHAIR'S MESSAGE



Criminal Injuries Compensation Board's

38th Annual Report

It is a pleasure to present the Board's 38th Annual Report. The fiscal year ending March 31, 2013 was one of both triumphs and disappointments as we continued our efforts to achieve service excellence for victims of crime in Ontario. We made substantial progress in continuing to reduce the overall time taken to complete applications. We were also successful in expanding initiatives we know are effective in improving service to victims. At the same time, the total number of applications processed over the course of the year was less than we had hoped. There are a few reasons for this which will be described in detail below and throughout the report.

The Speed of Claims Processing

Since 2009, the Board has been working towards a goal of developing a 12 month timeline for processing applications. We envision that the majority of claims will be completed - from receipt of application to release of decision and compensation - within 12 months. When this goal was first set, it seemed a long way off. At the time (March 2009) it took on average about 30 months for applicants to reach the end of the process. Further, we had the benefit of additional staff resources then to assist with the work.

I am very pleased to report that, for fiscal 2012-13, our average timeline is 13.7 months. Average processing time for claims filed within the two year limitation period was 13 months, a 20% reduction over the previous year. For claims filed beyond the two year limitation period, average processing time was 15 months, also a 20% reduction from the previous year. These results surpassed our projected performance targets of 17 months for claims filed within the two year limitation period and 19 months for claims filed beyond the two year limitation period. For the month of March 2013, average processing times for regular claims and extension claims were 12 months and 13 months respectively.

Our achievements in the area of reducing claims processing time have strengthened our confidence that a 12 month timeline is realistic, achievable and imminent. Presently, we anticipate the 12 month service standard will be consistently attained by the end of 2013-14 or early in 2014-15.

Keeping Pace with the Volume of Applications Received

At the end of fiscal 2011-12, we forecasted that we could hold 3,450 hearings over the course of fiscal 2012-13. This represented a substantial reduction in the volume of applications heard over the previous two years (3,944 and 3,950 respectively). However, we believed it was a realistic objective having regard to the volume of applications we are currently receiving annually and the total inventory of active applications. For example, in 2011-12, the Board received 3,377 applications. As of March 31, 2013 the Board had a total of 3,703 active files. By comparison, in fiscal 2008-09 we received 4,026 applications and had a total of 6,437 active files in inventory.

Unfortunately, by May 2012, it became apparent that the performance goal of holding 3,450 hearings could not be met. We were experiencing a temporary staff shortage and some delays in securing and training replacement staff.

Hence, we reduced our hearings goal to 3,150 hearings.

We crafted a strategy to increase the volume of claims processed over the summer and fall in order to prepare them for hearing over the winter months. All of the staff participated fully in this exercise and dedicated themselves to assisting as many applicants as possible. By year end, we had heard 3,052 applications, 98 short of our revised goal of 3,150 hearings.

Our experience over fiscal 2012-13 taught us valuable lessons that will serve the organization well in the future. First, it highlights the correlation between staffing levels and the number of claims that are heard. With a total staff complement of 49, the loss of even a small number of staff for a short time can have a significant impact on our work. To mitigate this type of event occurring in the future, we will be holding anticipatory staffing actions which will enable us to maintain a roster of qualified candidates. As a result, staff vacancies will be filled quickly thereby minimizing any adverse impact on applicants. Secondly, we are continuing to refine our claims analysis to better understand trends in applications received and to better predict when applications will be ready to be heard. Finally, we are working on options that will allow us to set hearing dates well in advance. It is hoped that establishing tentative

hearing dates early in the process will help ensure that the Board, police and the parties can work toward a clear and common goal.

Organizational Restructuring

In September 2010, the Board commenced a pilot project to establish regionally-focussed teams of staff and Board members to prepare claims for hearing. The pilot was expanded in April 2011 to enable all claims to be processed through this geographically-based, multi-disciplinary triage model. The new model has proven to be highly effective and has enabled us to achieve significantly higher productivity than we achieved without it.

In light of the success of this triage pilot project, we have decided to make the triage model of claims processing permanent. In February 2013, I announced to staff that we would be making changes to our organizational structure to incorporate our triage model permanently. The new organizational chart can be found later in this report.

Our new organizational structure involves the amalgamation of two previous units – the Claims Services Unit and the Claims Processing Unit – into one new Claims Management Unit (CMU). All staff in the former

units now report to one manager and are assigned to one of the three regionally-focussed triage teams. The manager and the teams will be supported by Team Leads who will assist with assignment of files, monitoring team outcomes and liaising with stakeholders in each region. Further, Board members are assigned to each team as Lead Adjudicators. The members are engaged with making preliminary rulings, providing advice on important evidentiary and procedural issues and guiding the processing of complex claims.

We are excited to see what other innovations the teams will unearth as they head along a path of continuous improvement. We anticipate opportunities will emerge to strengthen our relationship with stakeholders across the province for the benefit of victims.

Rendering Decisions Orally

In January 2011, we commenced a pilot project to give reasons for decision orally. In appropriate cases, Board members deliberate at the end of an oral hearing and then reconvene to advise the parties of their decision and the reasons for it.

From the start of this initiative, we received high praise for it. Many applicants indicated that they appreciated learning the outcome of

their hearing on the same day rather than waiting several weeks to receive detailed written reasons. At the same time, the reduced workload on Board members has meant that decisions are completed and compensation is provided to applicants much faster than when full written reasons are prepared in every case. Some parties still request written reasons but many are satisfied with what they hear orally.

Given the positive response to rendering oral decisions, we have decided to add this as a permanent practice. In 2012-13, 72% of oral hearings resulted in the reasons for decision being delivered orally. Over the coming months, we will be making modifications to some of our public information documents, such as the Rules of Procedure and Manual of Practice, to reflect delivery of reasons orally as a permanent element of our work.

Making Use of Technology

The Board strongly supports using technology to improve services and/or be more efficient with our resources. At the same time, in the current fiscal climate, limited funds are available to pay for technology. One has to be innovative in finding low cost options to maximize technology. In 2012-13 the Board successfully launched two new technology-based initiatives at

nominal cost that are helping us work better for Ontarians.

In September 2012, we introduced an online tool that helps inform parties about our oral hearings process. It was designed as an aid for victims and others who may be apprehensive about attending an oral hearing and want to better understand what they can expect. The tool allows viewers to scan photographs of a typical hearing room and follow a detailed narrative about the role of each participant. The tool is available on our website and easy to use. Thanks to the ingenuity and resourcefulness of our staff, this valuable tool was produced without cost. Staff members acted in the role of participants and provided the audio recordings. Photographs and audio recordings were taken by staff using a Blackberry device thereby saving costs associated with renting equipment. While a more "high tech" option may be optimal, we are pleased to offer the public a valuable educational tool for a nominal cost.

The second technologically-based initiative introduced this year is an electronic file management system for processing claims. The Board has been relying on electronic files for adjudication purposes since early 2010. However, in 2012-13, we decided to expand the use of electronic files to the whole claims processing system. This way, staff are able to work from an electronic

version of a claims file rather than relying on the hard copy version when processing some aspect of the claim.

The Board started implementation of this new system in January 2013. All claims filed with the Board from January 1, 2013 onward are processed using this electronic system. While a hard copy file is still created for each application to maintain original documents, all staff have access to the electronic version. This means that multiple staff can work on a claim simultaneously without delays associated with retrieving the physical file. In addition to reducing delays for applicants, the new system improves efficiency by reducing the amount of time staff require to maintain physical files.

Once again, we relied on the talent of our people to design and implement this electronic file management system. We are using existing information technology to support it. As a result, only nominal financial resources are required.

Finally, it is important to mention that the Board continues to rely on teleconferencing and videoconferencing, when feasible, to conduct hearings. While not all applications can or should be heard in this manner, there are many instances in which they are effective. For example, when a party lives out

of province and can not easily attend a hearing in person, teleconferencing or videoconferencing is often the best alternative.

New Tools of Governance, Accountability and Transparency

Over the course of 2012-13, the Board received Ministerial approval of several important governance and accountability documents that the Board is called upon to maintain consistent with the requirements of the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009* (ATAGAA). These instruments define and govern many aspects of the Board's work and inform members of the public of the Board's operating framework. The following documents are now available on our website at www.cicb.gov.on.ca: Mission and Mandate Statement, Member Accountability Framework including a Member Code of Conduct, Ethics Plan, Consultation Policy, Service Standards Policy, Conflict of Interest Rules, and Business Plan.

While not a requirement of ATAGAA, the Board also published a Manual of Practice in fiscal 2012-13. This document is a compendium of key issues addressed by the Board in its decisions and the law relating to them. While it was prepared for the sole purpose of assisting Board members in adjudicating claims, we have made it publicly available to

assist victims, other parties and the general public in understanding our work.

The following is a discussion of some of the substantive issues of note from fiscal 2012-13.

Impact of One's Criminal Record on Assessment of Compensation

The *Compensation for Victims of Crime Act* requires the Board to consider all relevant circumstances when assessing whether compensation should be awarded and the amount that should be awarded. For many years, consideration of an applicant's criminal history has had the potential to influence whether compensation will be granted. Most often, this occurs when an applicant has engaged in criminal behaviour at the time of, or leading up to, the incident causing injury. However, in some circumstances, consideration is also given to other criminal behaviour unrelated to the event for which compensation is sought. As an example, someone seeking compensation for alleged violent crimes occurring when he was in his early teens may be denied compensation if he was incarcerated for violent crimes committed in his twenties or thirties.

In cases where the Board is given information to suggest an applicant may have been involved in violent criminal behaviour, the Board asks the applicant to obtain a copy of

his/her criminal record or to give the Board consent to obtain it on his/her behalf. The record is then considered by the adjudicators when rendering a decision as to whether compensation ought to be awarded and, if so, how much. It is important to note that the existence of a criminal record does not preclude an applicant from receiving compensation. Rather, it is a circumstance that will be considered when assessing whether compensation from public funds is appropriate.

Participation of Alleged Offenders in Proceedings

As I have noted in previous annual reports, the rights of alleged offenders to participate in Board proceedings has been a source of concern for some stakeholders. In fact, two applicants for compensation filed motions with the Board arguing that giving notice to the alleged offenders and allowing them to participate in hearings violated the Charter rights of applicants. Specifically, it was argued that this act would infringe their right to life, liberty and security of the person (s. 7), the right against unlawful search and seizure (s. 8) and/or their right to equality (s. 15).

In a decision released in September 2012, the Board concluded that neither the statutory provision requiring

offenders to be notified of proceedings nor our practice in issuing such notices violated the applicants' Charter rights. Rather, notice is given to ensure procedural fairness such that those identified as having committed criminally violent acts, for which they have not been criminally convicted, would at least have an opportunity to participate in the proceeding.

The Board understands that some individuals seeking compensation are uncomfortable with the thought of the alleged offender being involved in the proceeding. For this reason, we take steps to minimize the impact on applicants while respecting the interests of alleged offenders. For example, notice is not usually given when the individual has been criminally convicted of the crime. The conviction negates any reputational interest the offender might have in the proceeding. If the Board agrees not to pursue a subrogated claim against the offender for the compensation awarded, his or her financial interest in the proceeding is also extinguished. Further, where the identity of the offender is uncertain or unnecessary in order to determine that a crime of violence has occurred, notice may not be given. For example, if an applicant is injured by gun fire that was clearly not self-inflicted, the identity of the

offender may be unnecessary and therefore notice may not be given.

Even in cases where an alleged offender is participating in the proceeding, steps are taken to minimize his/her interaction with the applicant. The parties frequently participate in hearings from separate facilities. Further, efforts are made to minimize the amount of personal information that must be disclosed between the parties. These measures enable the Board to balance the rights and interests of applicants and alleged offenders.

There were 444 hearings in 2012-13 in which notice was given to the alleged offender. This represents 14% of total hearings. 71 alleged offenders elected to participate in the hearing.

Moving Ahead

I am confident that 2013-14 will bring continued progress and success for the Board in its work with victims of crime. Our members and staff are committed to continuous innovation and identifying efficiencies in our service. We remain hopeful that an opportunity for review of our legislation may arise in the future and consideration can be given to whether more substantive improvements to victim

compensation can be achieved legislatively.

We are optimistic that, with the support of the Ministry of the Attorney General, we can continue to meet the needs of applicants with a timely, user-friendly and fair process. The Ministry was a valuable partner in 2012-13 in providing additional financial resources to address costs associated with remunerating Board members. At the beginning of 2012-13, our budget for services – of which remuneration of members is a significant amount – was substantially reduced from the allocation of previous years. This caused concern that we would be forced to delay hearings until the new fiscal year. Fortunately, the Ministry worked with us to adjust our budget

throughout the year and this serious problem was averted.

We may require additional support from the Ministry in 2013-14 to address the same concern. In the meantime, we are reviewing our own expenditures to determine whether opportunities for savings in our current budget exist. It is also possible that some minor legislative amendments could be beneficial in reducing costs by permitting more claims to be heard by individual members.

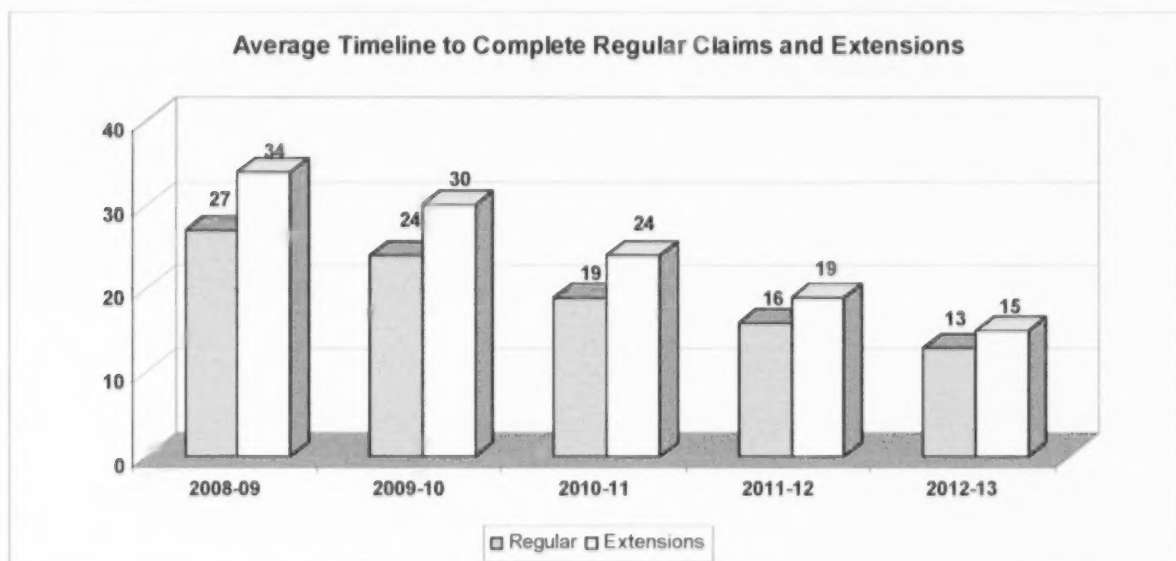
Maureen Armstrong
Chair,
Criminal Injuries Compensation Board

PERFORMANCE SUMMARY

The Board experienced both continued achievements and some disappointments this year in meeting its strategic goals of providing more timely and efficient responses and payments of compensation awards to victims of crime. While there were significant improvements in claims processing timelines, the number of scheduled hearings for the year fell short. Overall for 2012-13, we exceeded operational performance targets to reduce the average timeline from receipt of an application to the release of a decision. Whereas the Board had a performance target of an average of 17 months for completing claims filed within the two-year limitation period, actual performance achieved was 13 months. Similarly, the completion target for claims filed after the two-year limitation period was 19 months but actual results for the year was 15 months. These figures represent substantial reductions of 19% and 21%, respectively, over the previous fiscal year and a 24% and 21% improvement over our own performance goals.

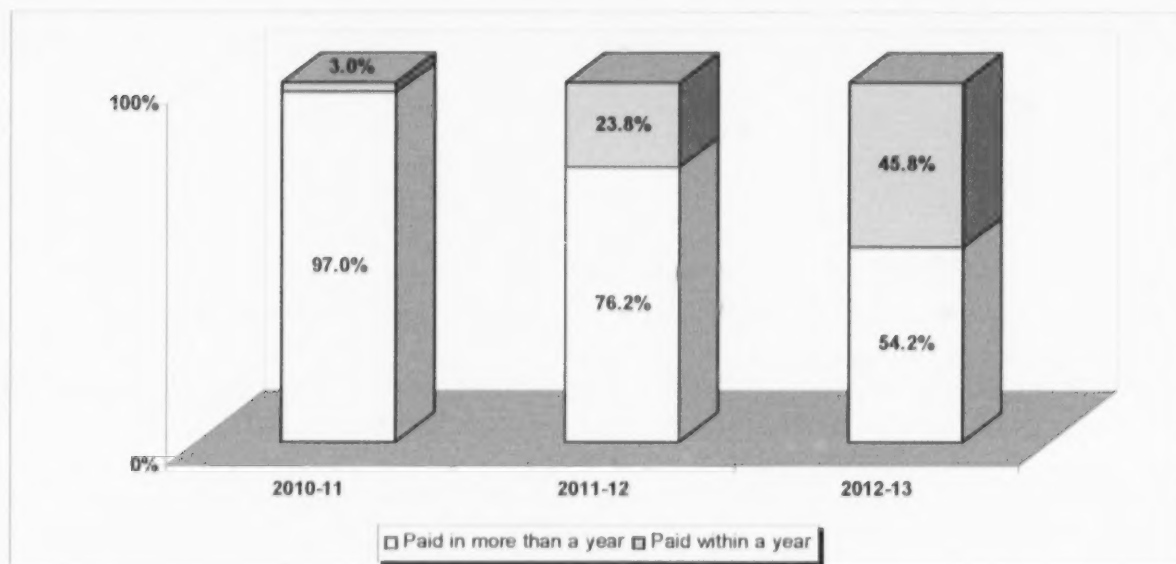
This year, there was continued expansion of the collaborative, team-based approach by staff and members of the Board within the Regional Triage model; it is expected that, over the longer term, these improvements will allow the Board to achieve a 12-month claims process.

Over the last five-year period, the average timeline to complete regular claims has been reduced significantly from 30 months in 2008-09 to 14 months in 2012-13, representing a decrease in processing time of 53%. Similar reductions were achieved for files with extensions as illustrated in the following chart.



We have also had a significant improvement in the number of applications that are paid out within a 12-month time period; for 2012-13, 1245 applications were paid out within 12 months. Over the last three years, the percentage of applications paid within a year has increased significantly from 3% to 45.8%.

Percentage of Applications Paid Within a Year



The table on the next page contains a comparison of key performance data over the past four years.

KEY PERFORMANCE DATA

	2009-10	2010-11	2011-12	2012-13
Claims Received	4,031	3,667*	3,377*	3,426*
Number of Hearings	3,792	3,948	3,944	3,052
Number of Files Completed	3,548	3,593	4,241	3,127
Average Award	\$7,798	\$7,303 **	\$8,078**	\$8,286**
Total Number of Claims with Monthly Periodic Payment Awards	282	245	238	231
Average Time (days) from Application to Hearing				
a) Where Claim Filed within Two Year Statutory Limitation Period	680	459	414	362
b) Where Claim Filed Beyond Two Year Limitation Period	843	565	488	429
Average Time (days) from Application to Award				
a) Where Claim Filed within Two Year Statutory Limitation Period	726	582	497	399
b) Where Claim Filed Beyond Two Year Limitation Period	888	704	573	458

*On July 1st, 2010, CICB introduced a new on-line application form which allows applicants to apply for multiple matters in one application form whereas, in the past, they would have been required to file more than one application. This new procedure has reduced the number of claims received in the past three years.

**The average award was \$9,216 for claims for which an award was granted. The average award for all claims (including where compensation was denied) was \$8,286. In 2010-11 and 2011-12, the average awards when granted were \$8,374 and \$8,791 respectively.

HEARINGS

A CICB hearing can be conducted either in writing or orally. Oral hearings are currently held in 19 locations across the province. The location selected is primarily based on where the claimant resides but may also be influenced by the urgency of the hearing or other needs. A breakdown of hearings by location is provided below.

Hearings Location Breakdown

Region	Location	% of Oral Hearings
Toronto*	Toronto	40.9
East & Central East	Belleville, Cornwall, Kingston, Ottawa, Orillia, and Peterborough	19.8
West & Central West	Kitchener, London, Windsor, Hamilton, and St. Catharines	27.3
North West & North East	Kenora, North Bay, Sault Ste. Marie, Sioux Lookout, Sudbury, Thunder Bay, and Timmins	12.0

* * The Regional Triage Team Pilot Project defines Toronto by the City of Toronto's official boundaries. However, the Board utilizes its permanent hearing rooms at 250 Dundas St W. as much as possible so many claims that originate from other regions but are in the Greater Toronto Area (e.g. Brampton, Newmarket, etc.) are heard there.

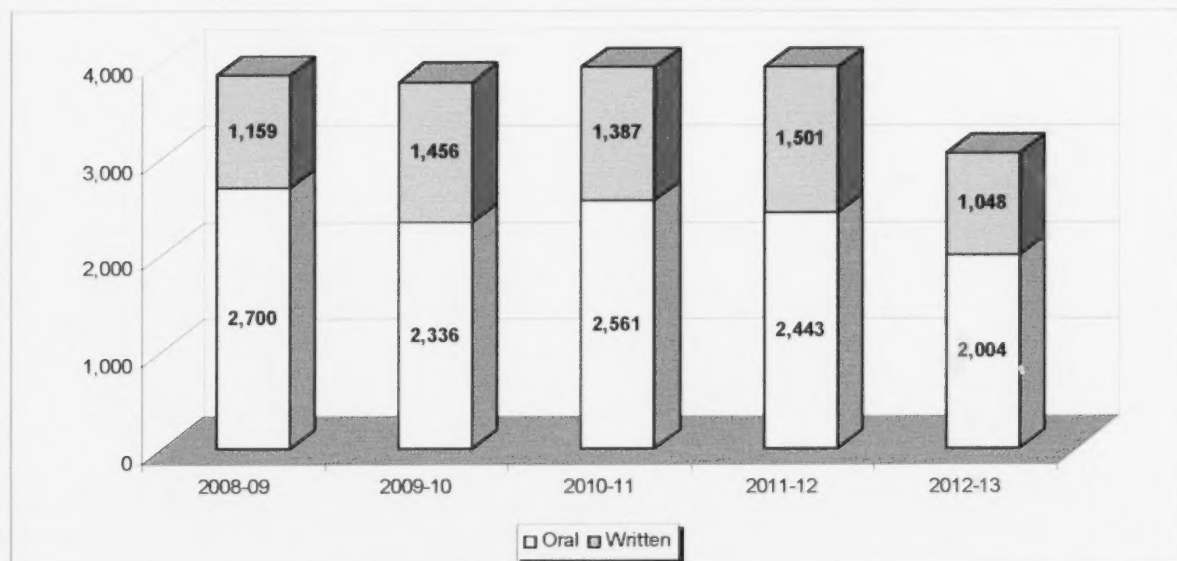
CICB Operational Performance (# of Hearings) over Five Fiscal Years

The following chart shows the number and type of hearings held in 2012-13, with comparative results for the previous five years. The ratio of written to oral hearings was similar with the previous year. In 2012-13, approximately 2/3 of hearings were conducted orally and 1/3 were conducted in writing.

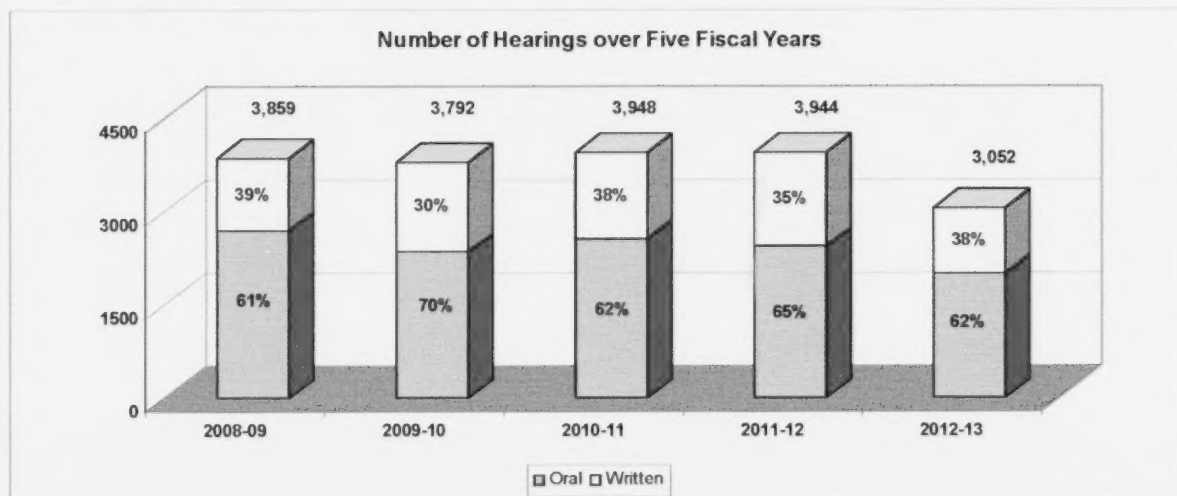
The Board continues to pursue all options for hearings (written, electronic and oral) to reduce delay. Generally, the Board elects which mode of hearing will be held. However, applicants have the option of choosing an oral hearing if they wish.

In 2012-13, the total number of hearings completed by the Board was 3,052 of which 2,004 were heard orally and 1,048 were heard in written form.

Number of Hearings



Percentage Breakdown of Hearings Held by Type



COMPENSATION AWARDS

The Board may award compensation as a lump sum or periodic award. Lump sum awards represent one-time payments made to an eligible claimant. These include benefits awarded under Section 14 (interim awards), Section 25 (variation awards) and Section 22 (costs), as well as payments for medical reports used in support of the claim.

Periodic payments are provided monthly. Some victims with particularly serious injuries may receive periodic payments for years, or even decades, up to a maximum of \$365,000.

The average award in 2012-13 was \$8,286, a 2.5% increase from the average in 2011-12 (\$8,078). The average award is calculated for all claims including those that were denied. If denials are excluded from the calculation, the average award was \$9,216. This represents almost a 5% increase over 2011-12 (\$8,791).

Both the 2011-12 and 2012-13 figures are consistent with the long term trend in average awards. The higher averages recorded for fiscal 2008-09 and 2009-10 were anomalous.

Overall, the Board paid out a total of \$29.3 million in awards in 2012-13, a 17.2% decrease over 2011-12. This is due to the decrease in the number of files heard.

The following table shows the Board's compensation awards over the past 15 fiscal years:

CICB NUMBER OF HEARINGS AND AWARD TOTALS

Fiscal Year	# of Hearings	Award Totals
1998-99	2,390	\$12.5 M
1999-00	2,205	\$13.7 M
2000-01	2,498	\$16.7 M
2001-02	2,134	\$13.8 M
2002-03	1,716	\$17.6 M
2003-04	2,424	\$17.6 M
2004-05	2,654	\$21.0 M
2005-06	2,321	\$18.3 M
2006-07	2,425	\$22.3 M
2007-08	3,466	\$31.0 M
2008-09	3,859	\$43.7 M
2009-10	3,792	\$32.1 M
2010-11	3,948	\$30.9 M
2011-12	3,944	\$36.2 M
2012-13	3,052	\$29.3 M
TOTALS	42,828	\$ 356.7 M
Average	2,855	\$ 23.8 M

According to the legislation, compensation may be awarded for:

- expenses actually and reasonably incurred or to be incurred as a result of the victim's injury or death;
- pecuniary loss incurred by the victim as a result of total or partial disability affecting the victim's capacity for work (e.g. loss of income);
- pecuniary loss incurred by dependants as a result of the victim's death (e.g. loss of financial support);
- pain and suffering;
- support of a child born as a result of rape; and
- other pecuniary loss resulting from the victim's injury and any expense that, in the opinion of the Board, it is reasonable to incur.

The following chart offers a comparison of lump sum compensation awards to victims of violent crime over a period of three years. These represent the great majority of awards that the Board provides.

Total lump sum awards for pain and suffering were \$6.3 million lower in 2012-13 than in the 2011-12 due to the reduction in the number of hearings held.

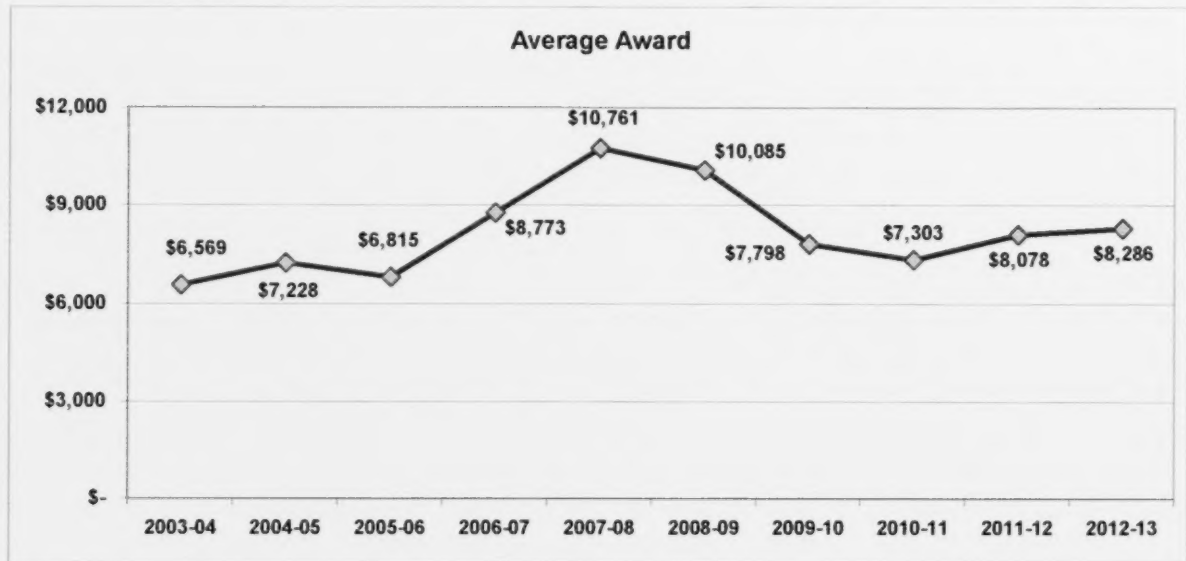
LUMP SUM AWARDS BY TYPE OF BENEFIT

AWARDS (\$000's)	2010-11	2011-12	2012-13
Pain and Suffering	\$25,246.0	\$ 30,222.6	\$ 23,911.9
Loss of Wages	\$619.8	\$ 556.1	\$ 429.4
Medical Expenses ¹	\$1,157.6	\$ 1,244.5	\$ 888.1
Funeral Expenses	\$325.9	\$ 371.8	\$ 414.2
Legal Expenses Associated with Application	\$82.0	\$ 82.0	\$ 85.5
Other Pecuniary Loss	\$253.0	\$ 217.3	\$ 120.4
Other ²	\$1,044.2	\$ 1,205.5	\$ 1,305.9
Total	\$28,728.5	\$ 33,899.8	\$ 27,155.4

NOTES:

1. Medical Expenses include dental expenses, counselling fees and ambulance fees, as well as the costs associated with obtaining medical reports in support of the application.
2. "Other" includes all Section 14 interim awards, Section 25 variation awards and the costs associated with obtaining reports in support of a Section 25 variation request.

AVERAGE AWARD TEN YEAR TREND

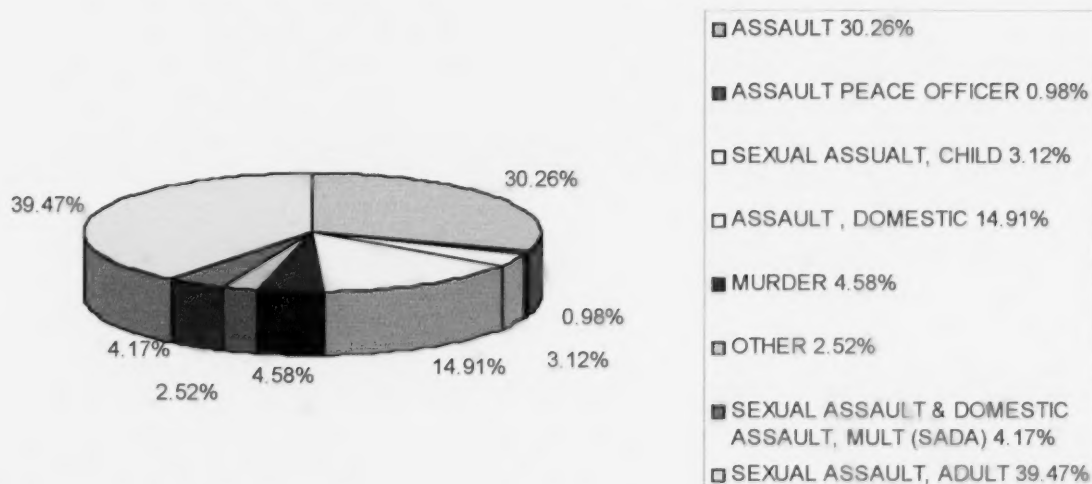


In 2010-11, the Board reviewed and updated its approach to capturing data about *Criminal Code* offence types in order to:

- assist with issue identification and claims processing;
- better assess performance issues based on the nature of the violent crime;
- develop more accurate information with which to inform the public.

There have been no material changes in the types of offence claims awarded in the past several years. However, we have made some changes to the categorization of offence types to better reflect how these offences are understood. Specifically, the previous category of "Sexual Assault, Historical", which included all sexual assault claims filed beyond the two year limitation period, has been eliminated. Claims that were previously captured under this category are now included under categories of either sexual assault on an adult or sexual assault on a child. Further, we have added a category of "Sexual Assault and Domestic Assault, Multiple" to reflect cases of both sexual abuse and domestic violence. These new offence categories reflect as much as possible the types of claims described in the new application forms introduced in January 2010.

LUMP SUM AWARDS BY TYPE OF OFFENCE



NOTES: "Other" includes arson, robbery, kidnapping and criminal harassment

FINANCIAL SUMMARY

The Government of Ontario provides funding to the Board for the payment of compensation awards and operating expenses on the accrual basis of accounting. A comparison of operating expenses and transfer payments for the fiscal years 2011-12 and 2012-13 is provided in the table below.

Total 2012-13 operating expenses amounted to \$6.54 million compared to \$7.11 million in 2011-12. This reflects a decrease in salaries and wages primarily due to staff vacancies and the reduction of staff approved on a temporary basis to eliminate the caseload backlog.

"Transfer Payments" refers to compensation awards that go directly to victims. Each year, the Board is allocated funding to allow for the payment of new cases that will not actually be paid out until future years, as well as to cover awards paid out for new cases received and awarded within the current year. In addition, the annual funding covers periodic payments and medical expenses paid directly to service providers over the course of a year. The amount for the future year's award obligations is added to the accrued liability account to be paid out once the case is heard and an order awarded by the Board. For 2012-13, the total transfer payments allocated amounted to \$34.16 million of which \$18.41 million was added to the accrued liability account for new cases to be paid in future years. \$8.37 million was added to the accrued liability account for a shortfall in this account.

Comparative Financial Summary – Accrual Basis

Account Item	Fiscal Year (April 1 – March 31)	
	2011-12 Actuals	2012-13 Actuals
Salaries and Wages	\$3,397,544	\$3,046,868
Employee Benefits	\$609,718	\$581,095
Transportation and Communications	\$446,715	\$489,521
Services	\$2,609,997	\$2,389,634
Supplies and Equipment	\$49,395	\$33,777
Transfer Payments	\$23,023,088	\$34,155,129
Total	\$30,136,457	\$40,696,025

The actual amount of transfer payment dollars received in 2012-13 was \$34.2 million. The increase in transfer payments to the Board reflects higher award payments for claims received and paid within the current period and additional funding has been added to cover a shortfall in this account. The actual amount spent on awards to victims in 2012-13 was \$29.3 million.

Separate accrued liability accounts are maintained for the Board's future payment obligations for Lump Sum Awards and Periodic Payments. Liability account balances as of the years that ended March 31, 2012 and March 31, 2013 are provided in the table below.

The 2012-13 year end balance of the Board's accrued liability account for lump sum awards is \$23.45 million. The Board retained a consultant to conduct a comprehensive review of our accrued liability forecast model. The revised model recommended that an accrual occur once a new application is received instead of the method used under the previous model when an accrual occurred once a new case was added to the caseload. Based on the new model, the liability amount for new cases is higher than last fiscal year. In addition, the report identified a shortfall in the accrued liability account. Therefore, \$8.37 million was added to the accrued liability account to address the shortfall.

The periodic payments accrued liability balance as at March 31, 2013 is \$22.90 million which is calculated as the 20-year liability accrual for periodic payment obligations from April 1, 2013 to March 31, 2033.

ACCRUED LIABILITY ACCOUNTS

	2011-12 Year End Balance	2012-13 Year End Balance
Lump Sum Awards		
Prior Years Cases Accrued Liability	\$1,954,611	-\$3,323,985
New Cases Accrued Liability	\$15,865,300	\$18,405,953
Additional Funding for Accrued Liability Account Shortfall		\$8,366,600
All Cases Accrued Liability	\$17,819,911	\$23,448,568
 Periodic Payments 20 Years Accrued Liability	 \$23,390,682	 \$22,909,198

PROGRAM DESCRIPTION

Overview

The Criminal Injuries Compensation Board is a quasi-judicial administrative tribunal that provides compensation to victims of violent crime occurring in the Province of Ontario. The Board is governed by the *Compensation for Victims of Crime Act* and it follows the rules and procedures set out in the *Statutory Powers Procedure Act*. It is subject to the *Freedom of Information and Protection of Privacy Act*.

Applications may be made by or on behalf of victims who have been injured, and for expenses and for pecuniary loss incurred as a result of death arising from a criminal act as defined under the *Criminal Code*. Applicants must prove on a balance of probabilities that a violent crime took place, causing an injury or death, and any financial loss associated with the injury or death. Where a person has been criminally convicted of the crime, that conviction is deemed conclusive evidence that the offence has been committed.

All claims must be filed with the Board within two years from the date of the incident. In certain circumstances, the Board may decide to extend the time limit where it is warranted. The Board will consider several factors including the length and the reasons for the delay, and whether adequate evidence is available to support the claim. An extension request must be made and approved in order to move the claim forward.

In assessing whether to give compensation and the amount to award, the Board considers all of the circumstances surrounding the incident including whether the victim's behaviour caused or contributed to the injury or death, whether the victim reported the incident promptly to the police and cooperated with any investigation, and if the victim has received compensation or benefits from some other source.

Who is Eligible for Compensation?

- Individuals who have been injured as a result of a crime of violence committed in Ontario; examples of a violent *Criminal Code* offence include assault, sexual assault, and dangerous use of a firearm.
- Individuals who are responsible for the care of a victim of violent crime and suffered a loss of income or had expenses as a result of the victim's injury or death.
- Individuals who are the dependants of a deceased victim (in the case of a murder).

- Peace officers injured while attempting to arrest a person, or individuals injured while trying to prevent a crime or while helping a police officer make an arrest.

What compensation is available:

- Expenses actually and reasonably incurred or to be incurred resulting from the victim's injury or death.
- Emergency medical, dental or counselling expenses, funeral expenses and support.
- Loss of wages generally to a maximum of \$250 per week to a maximum of \$1,000 per month, as a consequence of the total or partial disability affecting the victim's capacity to work.
- Pecuniary loss to the dependents of a deceased victim.
- Pain and suffering.
- Maintenance of a child born as a result of a sexual assault.

The Board does not award compensation for the following:

- Damaged or stolen property.
- An accident involving a motor vehicle (i.e. drunk driving or hit and run).
- Legal fees for criminal court and/or civil suits.
- Distress of attending criminal court.
- Workplace accidents (claim should be filed with the Workplace Safety and Insurance Board).
- Grief and sorrow experienced by relatives or friends of a deceased victim.

The following types of awards can be made:

Lump Sum Awards

The Board may award up to a maximum amount of \$25,000 for the injury arising out of an incident. If more than one person is affected by an occurrence, the maximum award to all applicants in respect of any one occurrence cannot exceed \$150,000. Lump sum awards are the awards most frequently issued by the Board.

Periodic Awards (monthly payments)

Where the Board is satisfied there is an on-going financial loss (e.g. lost wages as a result of permanent injury), it can award up to a maximum payment of \$1,000 per month, totalling \$365,000 for all applicants affected by a single

occurrence. If both a lump sum and a periodic award are made, the amount of the lump sum component cannot exceed \$12,500. Periodic awards are reviewed regularly and may cease at a future date.

Interim Awards (Section 14 of the Compensation for Victims of Crime Act)

Where there is an immediate need for compensation to cover medical expenses, support and/or funeral expenses, the Board may authorize those expenses to be paid in advance of the hearing. This can only be provided where the Board has sufficient evidence that an award will likely be granted following the hearing.

Variation Awards (Section 25 of the Compensation for Victims of Crime Act)

After a hearing, the Board may vary an order for payment in certain instances such as where there has been a change in circumstances. A variation can only be granted if an award was made initially.

THE PROCESS

Filing a Claim

Claim packages are available through the Criminal Injuries Compensation Board website at www.cicb.gov.on.ca and can be requested by telephone at toll-free: 1-800-372-7463, locally (GTA): 416-326-2900, and in writing to 439 University Avenue, 4th Floor, Toronto, Ontario M5G 1Y8.

Information Gathering Stage

In order to determine whether to award compensation to an applicant, the Board requires sufficient evidence that a crime of violence took place and the relevant circumstances surrounding the incident, the nature of the injury, and the expenses or wage loss for which the applicant is seeking compensation. Board staff assist with identifying information that is required to support the claim, such as hospital, medical, dental, therapy and/or court reports directly related to the incident. If the incident was reported to the police, the Board will contact the police service involved and request a written report.

The Hearing

Once all of the relevant documentation is provided, Board members decide on the application after holding either an oral or written hearing. During an oral hearing, parties and witnesses give sworn testimony either in person or sometimes by telephone. During a written hearing, the Board members make a decision based on the documents and information available on the file. The applicant, the offender and the Attorney General are all parties to the hearing and may provide documentation and/or attend an oral hearing.

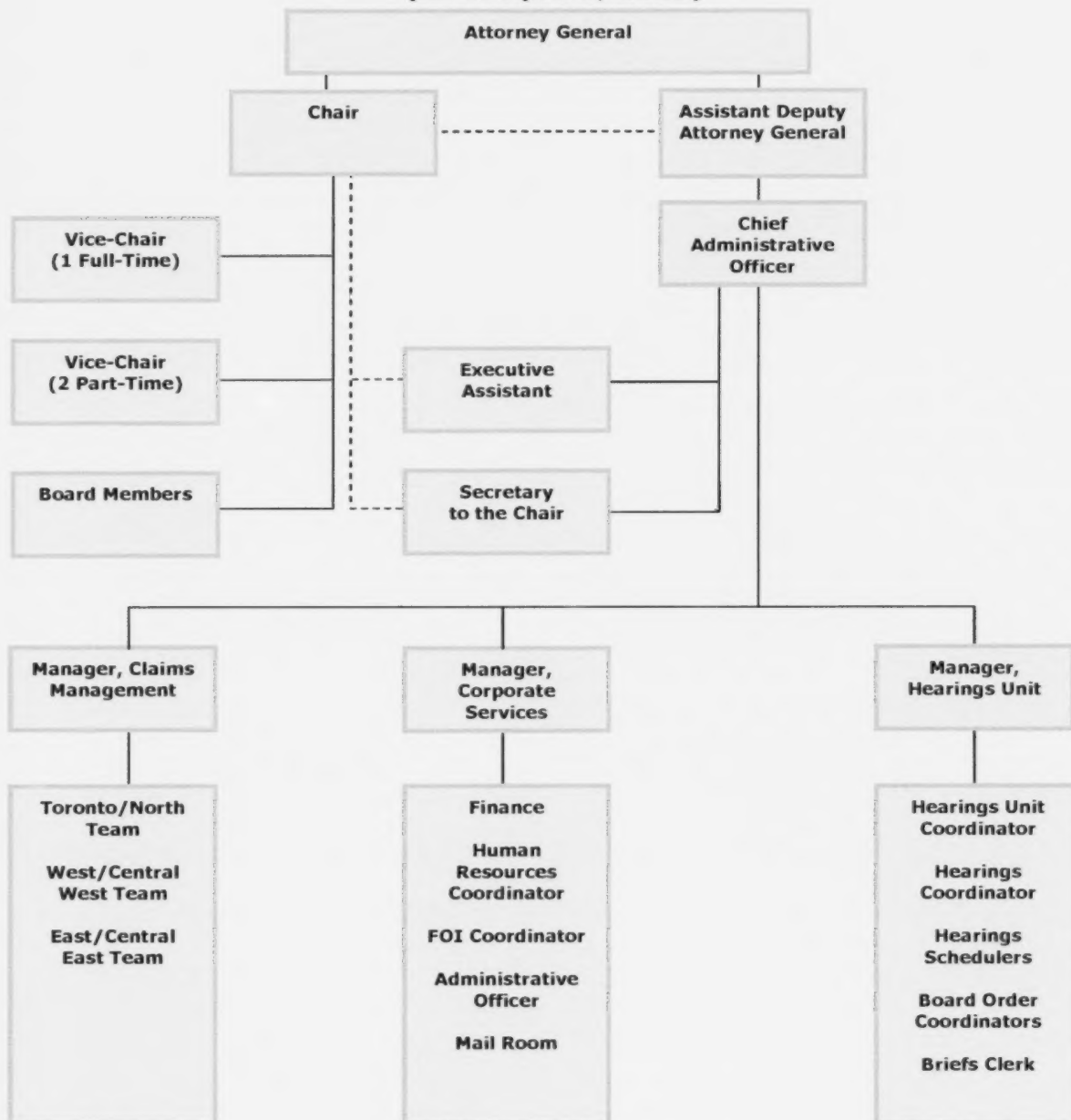
Once the hearing is complete, the Board prepares a written order and sends it to the parties. If the Board has decided to award compensation to the applicant, a cheque is sent to him or her along with the written order.

After the Hearing

If an applicant does not agree with the Board's order and that decision was made by a single Board member, the applicant can request that the matter be reviewed by two or more Board members by making the request to the Board within 15 days of receiving the original decision. If the original decision was made by more than one Board member, it can only be appealed on a question of law to the Superior Court of Justice (Divisional Court) within 30 days of receiving the order.

ORGANIZATIONAL CHART

(As of April 1, 2013)



BOARD MEMBERS

The composition of the Board is intended to reflect the diversity of Ontario's population and its various regions. The following individuals were members with the term reflected as of March 31, 2013.

Chair	First Appointment	Current Appointment
Maureen Armstrong	August 21, 2008	August 20, 2011 to August 20, 2013
Vice Chairs	First Appointment	Current Appointment
Al Spadaccini	June 30, 2006	March 9, 2012 to March 9, 2015
Anne Stanfield	November 1, 1973	Open-ended
Maria Tassou	June 6, 2007	December 5, 2012 to December 4, 2013

Board Members	First Appointment	Current Appointment
M Saleem Akhtar	September 8, 2009	September 7, 2012 to September 7, 2014
Lisa Barazzutti	October 20, 2010	October 19, 2012 to October 19, 2015
George Berrigan	February 7, 2007	February 6, 2012 to February 6, 2017
John Brothers	June 1, 2005	May 31, 2008 to May 31, 2013
Nicole Chenier-Cullen	September 8, 2009	September 7, 2011 to September 7, 2014
Emily Crocco	December 3, 2008	December 2, 2010 to December 2, 2013
Roderick Flynn	June 6, 2007	June 5, 2012 to June 5, 2017
Keith Forde	October 20, 2010	October 19, 2012 to October 19, 2015
Gemma Harmison	September 3, 1997	March 5, 2011 to March 5, 2016
Jacqueline Harper	October 20, 2010	October 19, 2012 to October 19, 2015
Jo-Anne Hughes	October 22, 2008	October 21, 2010 to October 21, 2013
Christie Jefferson	June 2, 2010	June 1, 2012 to June 1, 2015
Wendy King	October 20, 2010	October 19, 2012 to October 18, 2015
Kirsten Kurzuk	December 3, 2008	December 2, 2010 to December 2, 2013

Susan Lee	April 13, 2011	April 12, 2013 to April 12, 2016
Janet MacEachen	September 8, 2009	September 7, 2012 to September 7, 2014
Charlotte McQuade	September 8, 2009	September 7, 2012 to September 7, 2014
Jay Meunier	September 8, 2009	September 7, 2012 to September 7, 2014
Virginia Morra	June 6, 2007	June 5, 2012 to June 5, 2017
Aggrey Msosa	September 8, 2009	September 7, 2012 to September 7, 2014
Stanley Newman	June 1, 2005	May 31, 2013 to May 31, 2015
John R. Radmore	February 18, 2004	February 17, 2012 to February 17, 2017
Veda Rangan	September 8, 2009	September 7, 2012 to September 7, 2014
Kabir Ravindra	June 6, 2007	June 5, 2012 to June 5, 2017
Sharon A. Saunders	October 9, 2002	October 8, 2009 to October 8, 2013
Linda Spears	June 13, 2007	June 12, 2011 to June 12, 2016
Dawn Sullivan	February 7, 2007	February 6, 2012 to February 6, 2017
Leni Untinen	February 7, 2007	February 6, 2012 to February 6, 2017
Dawn Wickett	June 6, 2007	June 5, 2012 to June 5, 2017

CICB BOARD SUMMARIES

Annually, the Board outlines its application of the *Compensation for Victims of Crime Act*, by preparing a summary of a sample of orders. The following 10 claims and resulting orders illustrate some of the issues considered when rendering decisions and the associated awards given. In an effort to protect the privacy of victims who courageously and candidly disclose a great deal of highly sensitive and personal information to the Board, we endeavour to remove detail from these summaries which could identify the victim even where the case involved a public hearing.

0207-35924 – Domestic Assault & Criminal Harassment

Claim

The Applicant requested compensation for pain and suffering as well as reimbursement of expenses related to the acquisition of therapy reports.

Evidence

The 37 year-old female Applicant was physically assaulted and criminally harassed on multiple occasions by her former common law spouse whom she lived with in Toronto for approximately five years.

The Applicant was subjected to pushing, shoving, slapping, and other such assaults until she left her spouse. After the separation, he began following her from place to place, phoning her at all hours and stalking her home. She contacted the police who charged him with assault and criminal harassment. Despite the charges, he continued his harassing behaviour and he was subsequently charged with disobeying his release conditions. He was convicted of the charges and received two concurrent two-year sentences and served ten days in jail. He was then released and required to be confined to his residence for the first three months, to be on probation for two years and not to associate with the Applicant, either directly or indirectly.

The Applicant submitted that the violence and harassment resulted in soft tissue injuries to various parts of her body, heightened and prolonged anxiety states. There were also conclusions by expert medical and social work practitioners that she has suffered profound and unrelenting emotional trauma. Her current and future social relationships remain tainted by paralyzing anxiety over her personal safety and that of her daughter.

Decision

The Board found the Applicant to be a victim within the meaning of Section 5(a) of the Act as a result of the multiple acts of physical assault and criminal harassment that occurred over approximately five years.

The Applicant's case was presented in such a way that the Board could not establish what specific injuries resulted from each occurrence. Certainly, the evidence suggested that the emotional and psychological impact of the abuse had been significant and cumulative over time.

The Board accepted that the Applicant sustained more than one occurrence of criminal violence/harassment and made a global assessment of \$12,500 for pain and suffering, taking into account the cumulative effect of all the occurrences on the Applicant. The Board awarded \$200 for the requested expenses and \$2,500 for future counselling sessions.

1007-83888 – Physical Assault

Claim

The Applicant requested compensation for pain and suffering.

Evidence

The 30 year old male Applicant was assaulted by a stranger on a beach. On the date of the incident, he was enjoying a day at the beach with two female friends when a group of young males nearby made rude sexual comments towards the Applicant's friends. His friends got into a verbal altercation with one of the young males and when the Applicant intervened as a peace-maker, he was attacked by the male and kicked multiple times in the face.

The Police attended the scene and the Applicant was taken to hospital by ambulance. The police charged the young male with Aggravated Assault. However, he pled guilty to the lesser charge of Assault and received a Conditional Discharge plus six months of probation.

Medical reports established that the Applicant sustained multiple facial fractures to his nose, orbital bone, and left eye socket. He required surgery which installed two plates and twelve screws to repair some of the fractures. He was unable to work for the following week as his eye was swollen shut and his vision was blurred. Since he could only open his mouth slightly, eating was difficult and painful. The Applicant still has scars and he has been advised that additional

surgery maybe required to correct the scaring around his eye which may be permanent. The Applicant was emotionally traumatized by the assault. He has not returned to that beach as it triggers memories of the event and he has reservations about being in any crowed places.

Decision

The Board found the Applicant to be a victim of a single assault, and therefore, a victim within the meaning of Section 5(a) of the Act. Having considered the nature of the assault and the resulting physical and emotional impact on the Applicant, the Board assessed compensation for pain and suffering in the amount of \$6,000.

1110-86918 – Physical Assault (Good Samaritan)

Claim

The Applicant requested compensation for medical expenses, treatment expenses and pain and suffering.

Evidence

The Applicant was physically assaulted while coming to the aid of another person who was being assaulted and robbed by a male assailant. The assailant threw the Applicant to the ground then punched and kicked him repeatedly about the body and head. Passers-by came to the Applicant's assistance and the assailant fled the scene. The assailant was eventually apprehended by police and later convicted of Assault Causing Bodily Harm and sentenced to one year in prison.

Hospital reports indicate that the Applicant suffered soft tissue injuries to his face and left elbow. In addition, he sustained severe damage to his knee and an inversion sprain to his right ankle. He received numerous physiotherapy sessions and will likely require surgery to repair his damaged knee. He continues to be limited in his day-to-day activities, has to perform daily in-home exercises and ride a stationary bicycle three-to-four times per week. He has to walk with a cane, becomes quickly fatigued on exertion and can only stand for short periods of time.

The Applicant submitted that his out-of-pocket medical expenses and physiotherapy amounted to \$5,755.30.

Decision

The Act specifically provides a greater degree of compensation to those injured while trying to prevent crimes of violence against others. Section 5 (c) reads as follows:

Where any person is injured or killed by an act or omission in Ontario of any other person occurring in or resulting from preventing or attempting to prevent the commission of an offence or suspected offence against a person other than the applicant or his or her dependent or against such person's property.

The Board found the circumstances of Applicant's case appropriate for finding that he was the victim of a single Assault within the meaning of Section 5(c) of the Act. Having considered the nature of the Assault and the resulting physical and emotional impact on the Applicant, the Board assessed compensation for pain and suffering in the amount of \$7,500.

The Board awarded \$5,755.30 for the requested expenses and \$1,000 for future physiotherapy sessions.

1111-87282 – Assault on Police during Arrest

Claim

The Applicant requested compensation for treatment expenses, loss of earnings and pain and suffering.

Evidence

The Applicant is a police officer. On the date of the incident, the Applicant and his police partner were keeping two men under surveillance as they were suspected of committing armed robberies. The officers had no intent to arrest the men for these past robberies but they were trying to gather more evidence as to their activities. When they observed the men driving at an excessive rate of speed and not stopping for a stop sign, the officers decided to arrest the driver for the traffic infractions.

Upon identifying themselves as police officers, the driver fled from his vehicle on foot pursued by the Applicant's partner. The Applicant approached the passenger who had exited the vehicle from the passenger's side. The passenger pushed the Applicant backwards with both hands and fled on foot. The Applicant caught up with the passenger and a struggle ensued resulting in the passenger striking the Applicant on the mouth with his elbow and biting one of the Applicant's fingers.

The assailant was charged and convicted of Assaulting a Peace Officer and sentenced to nine months in prison plus a three years period of probation.

The Applicant sustained a blow to the mouth which resulted in a laceration to his lip and a chipped tooth. Since the assailant was a known drug user, the Applicant was required to take strong anti-viral medication for up to four-to-six weeks. The Applicant reported that the medication caused him side-effects that included nausea, bowel issues, extreme fatigue, loss of appetite and inability to function at a normal level. Consequently, the Applicant was required to take six days off work and unable to complete his full scheduled shifts. The Applicant did not test positive for any infectious disease.

The Applicant's family doctor described the injuries as an abrasion to the lower lip and left index finger with minor breaking of the skin. The Applicant's psychologist conducted one telephone interview three days post-incident and reported that the Applicant presented no significant problems. The Applicant's dentist reported that, ten months post-incident, the Applicant had a small upper incisor/enamel chip on one front tooth and no treatment was indicated.

Decision

The Applicant was required to prove that he was the victim of a crime of violence and that as a direct result of this crime of violence committed against him, he suffered injury pursuant to either section 5(a) or 5(b) of the Act, which read as follows:

Where any person is injured or killed by an act or omission in Ontario of any other person occurring in or resulting from,

(a) the commission of a crime of violence constituting an offence against the Criminal Code (Canada), including poisoning, arson, criminal negligence and an offence under Section 86 of that Act but not including any offence involving the use or operation of a motor vehicle other than assault by means of a motor vehicle;

(b) Lawfully arresting or attempting to arrest an offender or suspected offender for an offence against a person other than the applicant, or an offence against property;

Secondly, the Applicant was required to prove that, as a direct result of this crime of violence, he suffered significant physical and/or psychological injuries that were beyond superficial, minor, transitory and/or trifling in nature.

The Board first considered the Applicant's claim under section 5(b) of the Act which pertains to persons injured during an arrest. The assailant was not subject to arrest at the point when the Applicant first encountered him. The assailant's companion was going to be arrested for a traffic infraction when they both fled from the scene. Despite the Applicant's decision to pursue the assailant, the Board was convinced that the Applicant was not intending to arrest him for an offence against a person or another person's property as described in Section 5 (b) of the Act. Accordingly, the Board found that the Applicant was not a victim within that section of the Act.

As for section 5(a) of the Act, there was no doubt that the Applicant was assaulted. However, the medical and psychological reports had all described the Applicant's actual injuries as quite minor in comparison to the Applicant's own view. In this regard, the Board accepted the veracity of the medical and psychological reports and preferred them over the Applicant's subjective viewpoint.

In light of the foregoing, the Board found that the nature and extent of the Applicant's injuries were minor to the extent that they did not constitute an "injury" within the meaning of section 5 of the Act. Compensation to the Applicant was thereby denied.

1208-89899 – Assault on Child by Parent

Claim

The Applicant, a worker with Children's Aid Society (DCAS), submitted a claim on behalf of her client, a minor child, seeking compensation for pain and suffering.

Evidence

The Applicant submitted that the Minor Child was physically assaulted by his mother at the family's home.

There was also evidence that similar incidents took place outside of Canada. However, under the Act, the Board has jurisdiction to consider only those acts of violence that occurred in Ontario. Consequently, the incidents that happened outside Canada were referenced purely for contextual reasons.

The evidence indicated that the twelve year-old Minor Child ran into a police station to report that he had been assaulted by his mother. He told police that his mother was upset because he ate his brother's cereal and, as punishment, she made him hold his arms up in the air while she struck him several times

across the back with a wooden hanger until it broke. Police saw that there were several welts across the Minor Child's back, plus "defensive wounds" on his arms and a mark on his left temple. His mother was subsequently arrested and the Minor Child was brought into the care of the CAS. His mother was convicted of Assault and received twelve months of probation.

Decision

Section 11 of the *Act* states that proof of conviction shall be taken as conclusive evidence that the offence has been committed. The Board found that the Minor Child was injured as a result of this assault and thereby found him to be a victim within the meaning of section 5(a) of the *Act*.

Having considered the nature of the Assault and the resulting physical and emotional impact on the Minor Child, the Board assessed compensation for pain and suffering in the amount of \$2,000.

In cases involving Minor Children, the award is generally paid to The Accountant of the Superior Court of Justice under section 36 (6) of the *Trustee Act*, R.S.O. 1990, c. T.23, to the credit of the Minor Child until he/she attains the age of 18 years.

1210-90553 – Domestic Sexual Assault

Claim

The Applicant submitted a claim seeking compensation for pain and suffering and income loss.

Evidence

The 26 year old Applicant submitted that she sustained injuries related to a single incident of sexual assault committed at the residence of her 38 year old boyfriend. Prior to going to bed, the Applicant told her boyfriend that she did not want to participate in any sexual activity. She woke to find that he was digitally penetrating her vagina and she ordered him to stop before telling him again that she did not want to engage in any sexual activities. She fell back to sleep only to be re-awakened by her boyfriend performing the same act but in a far more aggressive manner; such that he caused her to experience severe vaginal pain. She managed to flee from the residence and took shelter at her parents' home.

Later in the day she attended the local hospital since she continued to experience pain and vaginal bleeding. The police were contacted and her boyfriend was

charged with Sexual Assault. In a plea arrangement, he was convicted of the reduced charge of Assault and was given a conditional sentence plus a twelve month period of probation.

The Applicant indicated that she was in constant physical pain for several days and experienced frequent vomiting and bowel issues. She described herself as feeling "*horrible, sad, confused and violated, without motivation or energy and without appetite*". She cried continuously, had nightmares and flashbacks of the incident and felt that her life was over. The Applicant had difficulty concentrating, felt anxious and panicky, she doubted her ability to trust anyone in the future and she lived in dread of meeting her assailant again. She was fearful of leaving her home and paranoid about people's thoughts and intentions about her. The Applicant indicated that she received counselling but she did not provide therapy reports to the Board.

The Applicant indicated that she was unable to work for 12 days resulting in a loss of \$1,300.

Decision

Despite the fact that the criminal conviction was for Assault, the Board accepted that her injuries were caused by a sexual assault. Since either offence is a crime of violence, the Board found the Applicant to be a victim within the meaning of section 5(a) of the Act.

Having considered the nature of the incident and the resulting physical and emotional impact on the Applicant, the Board assessed compensation for pain and suffering in the amount of \$8,000.00.

It is the Board's practice to reimburse income loss to a maximum of \$1,000 per month or \$50 per day. The Board found no compelling reason to deviate from that practice and thereby awarded \$600 for income loss (12 days @ \$50 = \$600).

1201-87753 – Assault--Relevant Circumstances under s. 17 (1) of the Act

Claim

The Applicant requested compensation for expenses and pain and suffering.

Evidence

The Applicant approached a young male, who was a stranger to him, and asked if he could buy some marijuana from him. The male agreed and subsequently introduced the Applicant to an adult male accomplice who would provide the drugs. When they disagreed on terms, the Applicant called off the deal and attempted to ride away on his bicycle. The accomplice grabbed the Applicant's MP3 player and when the Applicant tried to grab it back, the accomplice struck the Applicant once in the arm with a meat cleaver then fled. The accomplice was later charged and convicted of Aggravated Assault and Possession of a Dangerous Weapon.

The Applicant testified that following this incident he fell in with the "wrong crowd". Soon after the incident, the Applicant was incarcerated for eight months following his conviction for Possession of a Prohibited Weapon (a sawed-off shotgun) and several property offences. He opined that his incarceration was good for him because he finished high school, quit taking drugs, and was now gainfully employed.

Decision

The Board informed the Applicant of the potential difficulties that his application faced in respect to section 17(1) of the Act, which read as follows:

In determining whether to make an order for compensation and the amount thereof, the Board shall have regard to all relevant circumstances, including any behaviour of the victim that may have directly or indirectly contributed to his or her injury or death.

Section 17(1) requires that the Board take into consideration "all relevant circumstances", including any contributory behaviour on the part of the Applicant. The Act gives the Board broad discretion to determine whether compensation ought to be awarded in any given case and, if so, the amount. Awards from the Board are paid using public funds. They are not paid from the wrongdoer as would be the case if an Applicant pursued compensation through a civil action. However that requirement does not in any way limit the meaning of "all relevant circumstances."

In this context, the Board has also considered the Applicant's criminal history as evidenced in his criminal record. The Board's right to consider an Applicant's subsequent criminal behaviour when deciding entitlement to compensation has been upheld by the Ontario Divisional Court in *Sweet v. Ontario (Attorney-General)*, 2011 ONSC 2650 (Div.Ct.).

In following the broader instructions of the Court, the Board not only considered the inherent risks incurred by the Applicant by purchasing illicit drugs; but also the subsequent crimes committed by the Applicant. The Board considered the injuries suffered by the Applicant against these relevant circumstances to determine whether compensation ought to be awarded, whether a reduced award of compensation should be granted or whether compensation ought to be denied.

The Applicant suffered a five-inch cut to his right bicep which required twelve stitches and resulted in scarring. The Applicant testified that he was briefly depressed and fearful, but no longer suffered from these symptoms.

The Board found that the Applicant's conduct was disproportional to his injuries and the award for pain and suffering should not be adversely affected. Accordingly, the Applicant was awarded \$5,000.00.

1007-83823 – Section 10 Review Hearing

Claim

Pursuant to section 10(1) of the Act, the Applicant requested a review of a Section 25 Variation Order made by a single member at a documentary hearing of the Board.

Facts

The review in question is based on the denial of a claim for compensation by the single member to award a wage loss to the Applicant. The review hearing was conducted by a panel comprised of two Board members.

At the initial hearing, the Applicant was found to be a victim of sexual assault and awarded \$22,000.00 for pain and suffering. The Panel denied the Applicant's claim for income loss on the basis that it lacked supporting documentation (i.e. employer's report, pay stubs or income tax records) in order to verify her employment status and average net earnings at the time of the incident, and to determine whether any income-replacement benefits were received during the period being claimed, and to confirm the period of disability related to the incidents.

Following her initial hearing, the Applicant requested a variation of the original Order to reconsider her income loss claim pursuant to Section 25 of the Act. The matter was heard by a single member of the Board and the wage loss was again denied however; the reasons cited had to do with the fact that the usual practice

of the Board is to consider awarding income loss only in situations where an Applicant was actually employed at the time of the incident(s). Given the Applicant was a child at the time of the sexual assault and not working, the Board denied the claim.

Decision

In general, the Board does not interfere with the decision of a single member unless there are compelling reasons to do so (e.g. to correct a significant error).

The Board is not precluded from accepting new evidence at a Section 10 hearing. Such evidence is referred to as "fresh evidence", as it was not made available to the Board at the time of the single-member hearing. However, in order to do so, the following three conditions must be met:

- The Applicant proves, on a balance of probabilities, that the evidence could not have been obtained with reasonable diligence on the part of the Applicant;
- The evidence is such that, if given, it would probably have an important influence on the result of the case, although it need not be decisive;
- The evidence is apparently credible, although it need not be incontrovertible.

In reviewing the decision of the single member, the panel considered the evidence of the original application of the Applicant, complete with medical health records and with statements of financial claim, all of which were available to the single Board member at the time of the variation hearing. No fresh evidence was presented.

The Panel concluded that the single Board member did not make an error in law or of fact when rendering her decision, nor did she exercise her discretion improperly. The single Board member exercised the discretion available to her after considering all of the available evidence. As such, the decision of the single member was upheld.

1203-88385 – Homicide

Claim

The Applicant requested compensation for funeral expenses and bereavement counselling following the murder of her twenty-four year old daughter.

Evidence

This deceased victim was murdered by an individual who is still before the Courts on a charge of Second Degree Murder. As a result of the incident, the Applicant experienced significant grief and she paid \$825.80 toward funeral expenses. The actual funeral expenses totalled \$16,406.40. However, the bulk of these were paid by a combination of funds the Applicant received from Ontario's Victim's Quick Response Program (VQRP), a life insurance policy, Canada Pension Plan (CPP) and another source.

Decision

Based on the evidence before it, the Board found that the Applicant's daughter was a "victim" within the meaning of section 5(a) of the Act. Where a death has occurred as a result of a crime of violence, family members of the victim may be eligible for certain forms of compensation under the Act. These are as follows:

- Expenses related to funeral and burial services;
- Loss of Income that the victim had provided to support a dependant;
- Expenses incurred by a non-parent related to the support of the victim's minor children;
- Bereavement counselling to assist in coping with the immediate grief symptoms;
- Any other expense related to the death that the Board deems reasonable to incur.

Accordingly, the Board awarded the out-of-pocket funeral expenses to the Applicant and authorized \$2,500.00 for bereavement counselling expenses to be paid directly to a qualified treatment provider.

1202-87925 Homicide

Claim

The Applicant sought compensation for mental or nervous shock, bereavement counselling, loss of financial support and lost wages after her common law spouse was beaten to death at a campground.

Evidence

The Applicant and her spouse were camping together. The deceased victim got into an altercation with the four offenders after he encountered an unknown woman who had been assaulted and had a bloody nose. The Applicant arrived to

find the deceased victim on the ground badly beaten. He later died in hospital. The offenders were convicted of manslaughter.

Decision

The Board found that the Applicant had a significant psychological injury as a result of witnessing the aftermath of the violent assault on her spouse leading to his death. They found that she was eligible for compensation for mental or nervous shock and awarded her \$20,000 in pain and suffering. They also awarded up to \$2,400 in bereavement counselling.

With respect to her claims for loss of financial support and lost income, no evidence was provided to substantiate those aspects of the claim and they were therefore denied.

CONTACT INFORMATION

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